



**Government of Pakistan
National Tariff Commission**

Report on Termination

of

**Review for Change of Circumstances of Anti-dumping Duty
Imposed on Dumped Imports of Sorbitol 70% Solution from the
Republic of Indonesia**

A.D.C No. 002/2003/NTC/SB/CR/07

January __, 2007

The National Tariff Commission (hereinafter referred to as the "Commission") having regard to the Anti-Dumping Duties Ordinance, 2000 (LXV of 2000) (hereinafter referred to as the "Ordinance"), the Anti-Dumping Duties Rules, 2001 (hereinafter referred to as the "Rules") and to the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "Agreement on Antidumping"), conducted a review for change of circumstances under the above mentioned Ordinance and the Rules.

Imposition of Definitive Anti-dumping Duty

On July 19, 2003, the Commission imposed a definitive anti-dumping duty at the rate of 22.26 percent *ad val* on dumped imports of Sorbitol 70% Solution ("Sorbitol") exported by P. T. Soirini Corporation, TBK, Jl. Raya Gempol-Pandaan-East Java Indonesia for a period of five years. The original investigation was conducted and the anti-dumping duty was imposed on the request of domestic industry in Pakistan i.e. Habib Arkady Limited (now Habib-ADM).

A. PROCEDURE

The procedure set out below has been followed with regard to a review for change of circumstances ("Review") under Section 59 of the Ordinance.

1. Receipt of Application

The Commission received a written application from P. T. Soirini Corporation, TBK, Jl. Raya Gempol-Pandaan-East Java Indonesia (the "Applicant") on June 11, 2007, in terms of Section 59 of the Ordinance for Review for change of circumstances. The Applicant mentioned change in the following factors that justify need for a Review for change of circumstances:

- (i) Change in export and domestic prices;
- (ii) Insistence of customers in Pakistan on receiving Sorbitol ex-Sorini;
- (iii) Inability of local manufacturer to meet the local demand; and
- (iv) Due to imposition of antidumping duty market share has been taken by other exporters.

2. Evaluation and Examination of the Application

The examination of the application *prima facie* showed that it meets the requirements of Section 59 of the Ordinance as it contained some information in support of assertion of the occurrence of change of circumstances warranting Review.

3. Initiation of Review

3.1 In order to determine whether the need for continued imposition of anti-dumping duty on import of Sorbitol from P.T. Sorini Corporation, Indonesia, is

necessary to offset dumping, the Commission initiated a Review in terms of Section 59 of the Ordinance on July 25, 2007.

3.2 In terms of Section 27 of the Ordinance, notice of initiation of Review was published in the Official Gazette¹ of Pakistan and in two national newspapers² (one in English language and one in Urdu Language) on July 25, 2007.

3.3 The Commission notified the Embassy of the Republic of Indonesia in Pakistan (by sending a copy of the Notice of Initiation) on July 25, 2007. Copies of Notice of Initiation were also sent to other interested parties including, the domestic producer and importers of Sorbitol on July 25, 2007, in accordance with the requirements of Section 27 of the Ordinance.

4. Product under Review and Domestic Like Product

4.1. Product under Review

The product under Review is Sorbitol classified under Pakistan Customs Tariff ("PCT") No. 2905.4400 and 3824.6000. Its major input is Dextrose syrup (liquid glucose). It is used in food items, pharmaceuticals, cosmetics and textile industries.

4.2 Domestic like product

4.2.1 The domestic like product, produced by the domestic industry is Sorbitol classified under Pakistan Customs Tariff ("PCT") No. 2905.4400 and 3824.6000. Its major input is Dextrose syrup (liquid glucose). It is used in food items, pharmaceuticals, cosmetics and textile industries.

4.2.2 The Commission in its original investigation had determined that the investigated product and the domestic like product are like products.

5. Period of Review (POR)

The Commission decided to gather necessary information for fifteen months i.e. from January 01, 2006 to March 31, 2007 from the Applicant. As per procedure developed by the Commission, the Commission is required to collect information for last twelve months, however in this case examination is spread over fifteen months due to availability of data for a calendar year, January 1, 2006 to December 31, 2006 in such manner and then for the quarter, January 1, 2007 to March 31, 2007.

6. Interested Parties

¹ The official Gazette of Pakistan (Extraordinary) dated July 25, 2007.

² The 'Daily Business Recorder' and the 'Daily Express'

The Commission requested (through notice of initiation) all interested parties to participate in this Review and register themselves as an interested party with the Commission under Section 2(j) of the Ordinance. In response, thereto, the domestic industry, importers and users of Sorbitol got themselves registered with the Commission as interested parties to this Review.

7. Public File

The Commission, in accordance with Rule 7 of the Rules, has established and maintained a public file at its office. This file remains available to the interested parties for review and copying from Monday to Thursday between 1100 hours to 1300 hours throughout the Review. This file contains non-confidential versions of the application, response to the questionnaires, submissions, notices, reports, correspondence, and other documents for disclosure to the interested parties.

8. Confidentiality

In terms of Section 31 of the Ordinance, any information, which is marked confidential by the interested parties in their submissions and considered confidential by the Commission, shall, during and after the Review, be kept confidential. However, all interested parties were requested to submit the non-confidential summaries of the confidential information which have been placed in the public file for interested parties to review and copy.

9. Hearing

9.1 In terms of Rule 14 of the Rules, the Commission shall, upon request by an interested party made not later than forty five days after publication of notice of initiation of Review, hold a hearing at which all interested parties may present information and arguments.

9.2 No request for hearing was received from any interested party in this Review.

10. Factors that Warrant a Review

10.1 The Applicant claimed in its application that change in the following factors warrant a Review:

(a) Change in export and domestic prices

In its application the Applicant provided some information relating to domestic price and export price, which prima facie provided the inference that there was need for Review.

(b) Insistence of customers in Pakistan on receiving Sorbitol ex-Sorini

The Applicant argued that some customers in Pakistan insist to buy the product under Review from P.T. Sorini.

It is natural that old customers have relationship with the sellers and they wish to buy from them. Furthermore, it may be noted that the Commission has imposed anti-dumping duty at the rate of 22.26 percent on Sorbitol exported by P.T. Sorini Corporation to offset the impact of dumped imports and any party who wishes to purchase from the Applicant is free to do so after payment of anti-dumping duty imposed.

(c) Inability of local manufacturer to meet the local demand

The Applicant alleged that Habib-ADM has capacity to produce only 3000 MT of Sorbitol per year. Therefore, it cannot meet local demand.

Whereas Habib-ADM has claimed in its comments that during the period of investigation for injury determination in the original investigation production capacity of Sorbitol was 7500 MT per year while it has increased production capacity to over 15,000 MT per year during the period 2004-2006.

Further, in original investigation, the officials of the Commission verified the capacity of Habib-ADM during on-the-spot investigation and found it correct.

(d) Due to imposition of antidumping duty market share has been taken by other exporters

The Applicant has alleged that Habib-ADM does not have capacity to produce more than 3000 MT therefore, market share has been taken by other foreign exporters.

Whereas Habib-ADM has stated that dumping has started from other sources after imposition of anti-dumping duty on the Applicant. In this regard, Habib-ADM also alleges that sister company of P.T. Sorini, i.e. Khalista Liuzhou Chemicals Limited, has also started exports from China.

10.2 The claim made by the Applicant that export price to Pakistan and domestic price in Indonesia have changed during the POR requires detailed examination as per the provisions of the Ordinance, which includes calculation of dumping margin on the basis of comparison of prices at which the product in question was sold in the domestic market and exported to Pakistan during the POR.

11. Information Gathering

11.1 The application received from the Applicant in June 2007 did not contain detailed information (transaction-wise) of its export sales to Pakistan and domestic sales during the POR as per prescribed formats (Attachments C-3 and D-3 of the Application). Further, the information on its cost of production was also found deficient.

11.2 The representatives of the Applicant had a meeting with the officers of the

Commission on July 25, 2007 wherein, it was explained in detail that to establish change in circumstances the information relating to domestic sales and export sales to Pakistan during POR has to be provided in the prescribed format. In response the Applicant provided information relating to its exports sales to Pakistan during POR in the prescribed format. However, information relating to domestic sales and cost of production was found deficient. The Commission sent reminder on August 24, 2007 requesting the Applicant to provide all necessary information/data by September 1, 2007. On August 29, 2007 the Commission received an e-mail from the Applicant informing that it would not be possible to provide the requisite information within the given time. No response of the Applicant was received till first week of October 2007. On October 10, 2007 the Commission reminded the Applicant that necessary information is awaited from them. On October 25, 2007 the Applicant provided certain information/data, which was found deficient with respect to domestic sales and cost of production during POR. The Commission again informed the Applicant in detail about the information/data relating to its domestic sales (transaction wise details of each customer), cost of production in specified format and copy of complete audited accounts. The Applicant was asked to provide information till November 15, 2007. The Applicant requested for extension in time till November 30, 2007, which was granted by the Commission in its letter, dated November 26, 2007 and also informed that it should be considered as a final opportunity to provide the required information. The Applicant again failed to provide the requisite information by November 30, 2007.

11.3 Therefore, the Commission is unable to determine whether the margin of dumping calculated for the Applicant during the original investigation has changed.

12. Written Submissions by the Interested Parties

12.1 All interested parties were invited to make their views/comments and to submit information and documents (if any) not later than 45 days of the date of publication of notice of initiation of the Review.

12.2 The Commission received written submissions/comments from domestic producer of Sorbitol, i.e. Habib ADM, which are as follows:

“Rebuttals to points raised by P.T.Sorini”

- (i) *Change in export and domestic prices*
“It is evident from the reports generated by the Pakistan Customs Department as well as from market feedback that prices of Sorbitol imported from all countries have increased from approximately US\$ 325 per ton in 2002 to approximately US\$ 450 per ton in 2007. It is worth noting, however, that this trend is true for imports of Sorbitol from all foreign sources and not only for Sorini’s exports. The real reason for this price increase is not Sorini’s sudden decision to stop its illegal dumping practices; rather it is due to a general increase in direct costs of production for all producers worldwide”.
- (ii) *Insistence of customers on receiving Sorbitol ex-Sorini*

"It is natural for customers to negotiate with different suppliers for the best possible price. We are not asking for a complete ban on Sorbitol imports from any country. In fact we believe that free trade and open markets benefit all stakeholders – provided that all concerned parties abide by fair business practices".

(iii) *Inability of local manufacture to meet the local demand*

"Habib-ADM's original stated production capacity was 7500 Metric Tons of Sorbitol per year. This was verified by members of the NTC during the investigation of the original application in 2003. In the years, 2004-2006, Habib-ADM has made significant investments to increase capacity and had in fact increased its Sorbitol production capacity to over 15,000 Metric tons per year".

(iv) *Due to imposition of antidumping duty market share has been taken by other exporters*

"a. We strongly believe that dumping of Sorbitol continues unabated from several sources. This causes us injury in many ways including but not limited to:

- Prevents Habib-ADM from charging a fair price or Normal Value for Sorbitol.*
- Suppresses prices of Sorbitol in the domestic markets and prevents Habib-ADM from increasing prices to reflect true Normal Value.*
- Injures Habib-ADM by forcing it to accept a smaller market share and that too at below Normal Values.*
- Causes Habib-ADM injury in the form of loss of profit and loss of revenues.*
- Deprives Habib-ADM and its shareholders by way of reduced returns on investment and reduced returns on capital employed.*

b. It has recently come to our attention that P.T. Sorini has acquired production facilities in China and is exporting Sorbitol to Pakistan from their sister company, Khalista Liuzhou Chemicals Limited, in order to circumvent the anti dumping duties".

13. Conclusion of Review

13.1 The Commission is required to calculate normal value and export price of the product under Review on the basis of domestic sales and export sales to Pakistan, during POR, in terms of Section 59 of the Ordinance. The Applicant was required to provide detailed information along with documentary evidence relating to cost of production and export sales to Pakistan and domestic sales in the prescribed format in stipulated time period.

13.2 Despite repeated reminders and the Commission's requests to the Applicant to provide data/information on normal value and cost of production during POR, in the prescribed format, the Applicant failed to provide the same. The Applicant sought extensions in time, but failed to provide the information in the prescribed format. Hence, it is not possible for the Commission to analyze the request of the Applicant for change of circumstances under Section 59 of the Ordinance. Therefore, the Commission has no option but to terminate the Review due to non-availability of requisite information/data. The Review initiated on July 25, 2007 is, therefore,

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hereby terminated on account of lack of sufficient information.

Muhammad Ikram Arif
Member

Salman Nabi
Chairman